

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

PASTOR BENJAMIN A. JOHNSON,
DR. RONALD A. LUNDEEN, LARRY
D. CARTFORD, and PASTOR
ARTHUR F. HAIMERL on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

THE EVANGELICAL LUTHERAN
CHURCH IN AMERICA AND THE
EVANGELICAL LUTHERAN
CHURCH IN AMERICA BOARD OF
PENSIONS,

Defendants.

Court File No. 11-cv-00023 (MJD-LIB)

**DECLARATION OF
NICOLE A. DILLER IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS**

I, Nicole A. Diller, declare as follows:

1. I am a partner with the law firm of Morgan, Lewis & Bockius LLP, attorneys for defendants Evangelical Lutheran Church in America ("ELCA") and the Board of Pensions of the Evangelical Lutheran Church in America (the "Board") in the above-captioned litigation. In my capacity as a partner with responsibility for the management of this litigation, I have personal knowledge of the factual information stated in this declaration except as otherwise indicated. I submit this declaration in support of defendants' motion to dismiss.

2. A true and correct copy of the ELCA Retirement Plan Document, dated January 1, 2003, as received from the Board is attached as Exhibit A. This document is

referenced in the Second Amended Complaint (“SAC”) at paragraphs 31-33.

3. A true and correct copy of the 2001 Summary Plan Description as received from the Board is attached as Exhibit B. This document is referenced in the SAC at paragraphs 25-29.

4. A true and correct copy of the 1995 Summary Plan Description as received from the Board is attached as Exhibit C. This document is referenced in the SAC at paragraph 21.

5. A true and correct copy of the 1997 Summary Plan Description as received from the Board is attached as Exhibit D. This document is referenced in the SAC at paragraphs 22 and 23.

6. A true and correct copy of the 2005 Summary Plan Description as received from the Board is attached as Exhibit E. This document is referenced in the SAC at paragraphs 39, 41, and 42.

7. A true and correct copy of the 2002 Summary Plan Description as received from the Board is attached as Exhibit F. This document is referenced in the SAC at paragraph 30.

8. A true and correct copy of the 2004 Summary Plan Description as received from the Board is attached as Exhibit G. This document is referenced in the SAC at paragraphs 38, 40, and 42.

9. A true and correct copy of the 2008 Summary Plan Description as received from the Board is attached as Exhibit H. This document is referenced in the SAC at paragraphs 39, 41, and 42.

10. A true and correct copy of a September 2009 Letter from the Board's President, John G. Kapanke, to Plan Members, including 2009 Frequently Asked Questions and 2009 Summary Plan Features, as received from the Board is attached as Exhibit I. This document is referenced in the SAC at paragraphs 3, 45, and 46.

11. A true and correct copy of the ELCA Regular Pension Plan Document, dated January 1, 1995, as received from the Board is attached as Exhibit J. This document is referenced in SAC at paragraph 20.

12. A true and correct copy of the ELCA Regular Pension Plan Document, dated January 1, 1997, as received from the Board is attached as Exhibit K. This document is referenced in the SAC at paragraphs 22 and 23.

13. A true and correct copy of the Constitution, By-Laws, and Continuing Resolutions of the Evangelical Lutheran Church in America, dated August 2009, as received from ELCA is attached as Exhibit L. This document is referenced in the SAC at paragraph 53.

14. A true and correct copy of the 2006 Summary Plan Description as received from the Board is attached as Exhibit M. This document is referenced in the SAC at paragraphs 41 and 42.

15. A true and correct copy of the 2008 Annual Report issued by the Board, obtained at <http://www.elcabop.org>, is attached as Exhibit N. This document is referenced in the SAC at paragraph 44.

I declare under penalty of perjury under the laws of the United States of America

that the foregoing is true and correct. Executed this 18th day of March 2011, in San Francisco, California.

s/ Nicole A. Diller

Nicole A. Diller